

In 2007, the Department of Defense made it illegal to offer a service member any payday, title, or refund anticipatory loan above 36% APR.



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In 2007: "It's a big problem for commanders, because what happens is often these households get themselves in over their heads," said David S. C. Chu, under secretary of defense for personnel and readiness. "They're \$200 short between now and next payday, but they're no better off when payday comes, so they need a bigger loan, and it just goes downhill from there."

"We equate financial readiness with mission readiness," Chu said. "This is part of a larger effort to create a culture that encourages our service members and their families to develop sound financial strategies. Preparing for emergencies is an important step forward and vital to avoiding predatory practices and a cycle of debt."¹

In 2006: "The Report On Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents" notes that as many as one in five servicemembers are falling prey to loan centers near military bases.

"It estimates that 13 to 19 percent of military people took out high-interest, short-term loans last year — typically borrowing about \$350 a pop at interest rates of 390 percent to 780 percent."²

December 23rd, 2008: "Predatory lending also has been a problem, but seems to be decreasing through educational outreach to servicemembers and passage of a federal law last year to curb it, officials said."³

¹ <http://www.defenselink.mil/releases/release.aspx?releaseid=11369>

² <http://www.defenselink.mil/news/newsarticle.aspx?id=668>

³ <http://www.defenselink.mil/news/newsarticle.aspx?id=52455>

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HB 396 – The Predatory Lending Bill

Protecting Montana from Abusive Financial Practices

Deferred deposit (payday) loans and title loans are often portrayed as the last option for people with poor credit histories—giving them a borrowing option to get over hard times. Research and statistics show that this is absolutely not the case, and most payday and title loans companies are predatory and rely on repeat borrowers for nearly all of their income.

Background: HB 396, Capping payday and title loan interest rates at 36%

- **Montanans are caught in a debt trap:**

In Montana in 2007, lenders reported 180,031 payday loans issues at reported APRs ranging from 180% (Western Pawn Brokers) to 739% (Check into Cash MT). Advance America, a national payday lending chain based out of state loaned a total of \$4,639,440 in 18,140 loans at average APRs (dependent on location) between 520% and 613%.

- **Congress Capped the Rate for Military Personnel at 36%:**

In 2006, the United States Congress and the Department of Defense worked together to cap the payday lending interest rates for military members at 36% APR; acknowledging that the high interest rates charged by payday lenders are dangerous and a threat to American families.

- **Money is being shipped out of Montana:**

Most payday lenders are not owned by Montanans. Since 2007, 15 states have capped payday lending interest rates at 36%. This means that out of state companies are setting up stores in Montana, paying their employees low wages, then shipping the profits out of Montana. Payday lenders are taking money from the most vulnerable Montanans and siphoning it to wealthy out-of-state companies.

- **Payday and Title Loans are *NOT* the only way!**

There are currently 21 thriving credit unions in Montana that offer non-predatory payday lending alternatives. These credit unions prove that not only is it possible, but profitable, to have a small loan business model that does demand a debt trap.

- **Fifteen States have Capped the Rate:**

Currently, 15 states plus the District of Columbia have rate caps for all small loans, including payday loans. Moreover, the momentum is in favor of the rate cap; since 2007, Oregon, D.C., Arkansas, New Hampshire and Ohio have effectively capped interest rates at 36 percent APR or less. And for the first time voters have directly spoken in favor of a rate cap. The payday lenders put two pro-industry issues on the ballot in Ohio and Arizona in November and in both states, voters soundly rejected the payday lenders' attempt to repeal the rate cap in Ohio and extend the payday authorization law permanently in Arizona.

Protect Montanans from abusive financial practices – support HB 396.

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Background: Title Loans in Montana

Size of Loan	Maximum Interest for a 30-day Period
Up to \$2000	25%
\$2000-\$4000	18%
\$4,000 +	10%

- Below are some charts that outline how interest accrues quickly and dangerously on title loans. The first chart is directly from the Division of Banking, as is explanation on how the chart should be read. It is important to note that if partial payment on the interest or the principal is made, the loan may be renewed. The bottom two charts follows the Division's example. After the charts is a portion of the Title Loan Act.

	Principal	Interest per month at 25%	Accrued interest at 25%	Total amount due
Original loan	\$500	\$125	\$125	\$625
Renewal 1	\$500	\$125	\$250	\$750
Renewal 2	\$500	\$125	\$375	\$875
Renewal 3	\$500	\$125	\$500	\$1,000
Renewal 4	\$500	\$125	\$625	\$1,125
Renewal 5	\$500	\$125	\$750	\$1,250

*This chart is illustrative only. A borrower must make a payment towards the principal or interest every 60 days. However, for the sake of illustration, this chart assumes no such payment is made. If a borrower does not make a payment towards principal or interest within 60 days, the loan is placed into default. ¹

¹ Department of Administration, Division of Banking and Financial Institutions July 21, 2008 – (Montana Administrative Register 14-7/21/08

	Principal	Interest per month at 18%	Accrued interest at 18%	Total amount due
Original loan	\$3,500	\$630	\$630	\$4,130
Renewal 1	\$3,500	\$630	\$1,260	\$4,760
Renewal 2	\$3,500	\$630	\$1,890	\$5,390
Renewal 3	\$3,500	\$630	\$2,520	\$6,020
Renewal 4	\$3,500	\$630	\$3,150	\$6,650
Renewal 5	\$3,500	\$630	\$3,780	\$7,280

	Principal	Interest per month at 10%	Accrued interest at 10%	Total amount due
Original loan	\$8,000	\$800	\$800	\$8,800
Renewal 1	\$8,000	\$800	\$1,600	\$9,600
Renewal 2	\$8,000	\$800	\$2,400	\$10,400
Renewal 3	\$8,000	\$800	\$3,200	\$11,200
Renewal 4	\$8,000	\$800	\$4,000	\$12,000
Renewal 5	\$8,000	\$800	\$4,800	\$12,800

31-1-817. Interest rates -- fees charged. (1) The maximum rate of interest that a title lender may contract for and receive for making and carrying any title loan authorized by this part may not exceed:

(a) 25% for each 30-day period for the portion of a loan that does not exceed \$2,000;

(b) 18% for each 30-day period for the portion of a loan exceeding \$2,000 but not exceeding \$4,000; and

(c) 10% for each 30-day period, plus fees, on the portion of a loan that exceeds \$4,000.

(2) Title lenders may charge their actual costs of recording liens on borrowers' certificates of title.

(3) Title lenders may charge a service charge, as provided in 27-1-717, if there are insufficient funds to pay a check on the date of presentment. Title lenders may not collect damages under 27-1-717(3) based upon the presentment of an insufficient funds check.

-31-1-816. Title loan requirements -- liability of borrower -- right of rescission -- arbitration. (1) Any licensed title lender may engage in the business of making loans secured by a certificate of title subject to the provisions of this part.

(2) Each title loan must have a term of 30 days and must be reduced to writing in a title loan agreement. Each title loan agreement must provide that:

(a) the title lender agrees to make a loan of money to the borrower and that the borrower agrees to give the title lender a security interest in unencumbered titled personal property owned by the borrower;

(b) the borrower consents to the title lender keeping possession of the certificate of title;

(c) (i) the borrower has the exclusive right to redeem the certificate of title by repaying the loan of money in full and by complying with the title loan agreement for an agreed period of time;

(ii) the borrower may rescind the transaction if, by 5 p.m. of the title lender's first business day following the day that the loan was executed, the borrower provides the title lender with cash or certified funds equaling 100% of the amount loaned to the borrower. A title lender may not charge a borrower any fee or interest if the borrower rescinds the loan as provided in this subsection (2)(c)(ii). Except as provided in this subsection (2)(c)(ii), a borrower does not have a right to rescind the loan unless the title lender agrees to the rescission.

(d) (i) the title loan may be renewed for additional 30-day periods beyond the original term provided that beginning with the sixth renewal, and for each subsequent renewal, the borrower shall reduce the principal amount by at least 10% of the original principal amount of the loan; and

(ii) if the borrower fails to reduce the principal amount as required by subsection (2)(d)(i), the title lender may at its option:

(A) declare outstanding principal and any finance charges due and payable; or

(B) solely for the purpose of calculating the finance charge, reduce the amount of the principal balance by 10%, with the understanding that that portion of the principal is still owed by the borrower but that portion of the loan may not accrue interest or finance charges after that date;

(e) when the certificate of title is redeemed, the title lender shall release its security interest in the titled personal property and return the personal property certificate of title to the borrower;

(f) (i) upon failure of the borrower to redeem the certificate of title at the end of the original 30-day agreement period or at the end of any agreed-upon 30-day renewal, the borrower shall deliver the titled personal property to the title lender at the location specified in the title loan agreement; and

(ii) the borrower shall deliver the titled personal property to the title lender in substantially the same condition that it was in at the time that the borrower entered into the loan, minus normal wear and tear;

(g) if the borrower fails to deliver the titled personal property to the title lender, the title lender must be allowed to take possession of the titled personal property;

(h) upon obtaining possession of the titled personal property, the title lender is authorized to sell the titled personal property and to convey to the buyer good title, subject to the waiting periods provided for in 31-1-820; and

(i) a borrower who does not redeem a pledged certificate of title is not personally liable to the title lender to repay principal, interest, or expenses incurred in connection with the title loan and that the title lender shall look solely to the titled personal property for satisfaction of the amounts owed under the title loan agreement.

(3) The security interest provided for in subsection (2)(a) is not perfected unless it is filed in accordance with 61-3-103.

(4) Any borrower who obtains a title loan from a title lender under false pretenses by hiding or not disclosing the existence of a valid prior lien or security interest affecting the titled personal property is personally liable to the title lender for the full amount stated in the title loan agreement, including interest and expenses incurred by the title lender in connection with the loan.

(5) (a) A loan agreement may not contain a mandatory arbitration clause that is oppressive, unconscionable, unfair, or in substantial derogation of a borrower's rights.

(b) A mandatory arbitration clause that complies with the applicable standards of the American arbitration association must be presumed to not violate the provisions of subsection (5)(a)